

REMARKS

In response to the Office Action mailed April 7, 2009 ("Office Action"), Applicant respectfully requests reconsideration and reexamination of this application and the timely allowance of the pending claims.

I. Interview Summary

Applicant acknowledges, with appreciation, the telephonic interview conducted on May 27, 2009, between the undersigned and Examiner Wong. Also present on the call were Linda J. Thayer (Reg. No. 45,681) and Reza Sadr (Reg. No. 63,292) of Finnegan. The substance of the interview is made of record in the remarks below.

II. Status and Disposition of the Claims

In the Office Action¹, the following actions were taken:

- 1) Claims 16-22 were rejected under 35 U.S.C. §101 as being directed to non-statutory subject matter;
- 2) Claims 1-8, 15-17, 23, 24, 30, 32, and 34 were rejected under 35 U.S.C. §102(b) as being anticipated by North Carolina Salary Control System Operator's Manual (hereinafter SCS);
- 3) Claims 9-10, 18-22, and 25-29 were rejected under 35 U.S.C. §103(a) as being unpatentable over SCS in view of General Ledger System, "Salary Encumbrances" (hereinafter GLS);
- 4) Claims 11-14 were rejected under 35 U.S.C. §103(a) as being unpatentable over SCS in view of Visual Rota, "Cash Budgets & Budgetary Control" (hereinafter Visual Rota).

In this response to the Office Action, Applicant amends claim 16 and adds new claim 35. No new matter has been added with these amendments. Upon entry of the amendments, claims 1-30, 32, 34, and 35, of which claims 1, 16, 23, and 34 are independent, will be pending and under consideration on the merits.

III. Response to Rejections

Applicant respectfully traverses the aforementioned rejections and requests reconsideration based on the following remarks.

Claim Rejections Under 35 U.S.C. §101

Citing the machine or transformation test as articulated in *In re Bilski*, the Office Action stated that

claims 16-22 fail to meet the [requirements for statutory subject matter] ... Applicant has amended claim 16 to recite: that the method is computer-implemented; that the data is retrieved from a computer database; and that the projected human resource budget is stored in a computer storage. Such recitations do not qualify as a sufficient tie to another statutory class since they amount only to insignificant postsolution activity. Office action at pages 2-3, Emphasis added.

Applicant, however, respectfully disagrees that the above limitations amount to "insignificant postsolution activity" of the type disallowed by *In re Bilski*. Specifically, among other things, claim 16 recites

storing said projected human resource budget in a computer storage and monitoring by a computer changes in said projected human resource budget during said predefined period of time; and
providing an automatic advance notification sent by the computer to a user if the projected human resource budget exceeds a fund reserved for the given human resource object for said predefined period of time.

In order to monitor changes in the project human resource budget, the claimed method stores the projected budget on a computer storage. Moreover, the recited providing step also uses that storage in order to compare the stored projected human resource budget with a reserved fund. Applicant, therefore, submits that the claimed invention is tied to a machine and the involvement of the machine is not insignificant.

¹ The Office Action contains a number of statements reflecting characterizations of the related art and the claims. Regardless of whether any such statement is identified herein, Applicant declines to automatically subscribe to any statement or characterization in the Office Action.

To further make the point, in accordance with the Examiner's suggestion during the interview and in order to advance the prosecution, Applicant has amended claim 16 to also state that the monitoring and the sending of advance notification is performed by a computer. Therefore, Applicant submits that claim 16 is directed to statutory subject matter.

Claims 17-22 depend either directly or indirectly from, and thus include elements of, claim 16. Applicant therefore contends that, for at least the above reasons, claims 16-22 are directed to statutory subject matter and thus proper under 35 U.S.C. §101.

Claim Rejections Under 35 U.S.C. §102

Applicant respectfully traverses the 35 U.S.C. §102 rejections because, at a minimum, the reference cited by the Office Action does not teach or suggest every element of the rejected claims.

Independent Claim 1

Claim 1 is directed to a position budgeting and control system. The claimed system includes a CPU, an input/output means, at least one data base containing human resource data, and a commitment engine. In its rejection of claim 1 on pages 3 and 4, the Office Action indicated that SCS discloses all elements of claim 1. Applicant, however, disagrees and traverses the rejection.

Specifically, SCS does not teach or suggest at least a commitment engine that is for

evaluating a projected human resource budget for a given human resource object for a predefined period of time ... monitoring changes in said projected human resource budget during said predefined period of time, and providing an automatic advance notification to a user if said projected human resource budget exceeds a fund reserved for the given human resource object for said predefined period of time,

as recited in claim 1.

SCS discloses

an on-line IMS system with all data maintained ... at the Office of Information Technology ... [The on-line system] is available to all state agencies [in North Carolina]. It has two functions: to prevent overspending salary line items on an annual basis and to show the detail transactions necessary to balance salaries for one Continuation Budget with the previous Continuation Budget. SCS, page 1.1.1.

Citing SCS section 1 and page 2.1.2, the Office Action stated that

salary encumbrances are projected human resource budgets. The reserve in SCS is adjusted in accordance with the salary encumbrances and individual balances may operate in the negative. Therefore, the indication of a negative balance is an advance notification that a projected human resource budget will exceed a fund reserved for a given human resource object. Office Action, page 4.

However, nowhere does SCS teach or suggest that its system monitors changes in a projected human resource budget and provides an automatic advance notification to a user if the projected human resource budget exceeds a reserved fund, as recited in claim 1. In SCS, "[i]f the PMIS amounts are higher than the Continuation Budget amounts, the salaries or the authorized budget must be adjusted to the end that the Continuation Budget is sufficient to cover salary obligations." SCS, page 2.1.1. However, SCS does not teach or suggest if, when, or how the difference between the PMIS amounts and the Continuation Budget amounts is detected. The mere possibility that someone may at some point detect this change does not suggest that regular "monitoring" occurs in order to determine when it does.

Further, in SCS,

[t]he agencies are responsible for maintaining accurate salary reserve information in SCS. Periodically, OSBPM [Office of State Budget, Planning & Management] will monitor and review the reserve balances. During the year, individual balances may operate in the negative as long as the overall budget code amounts are not negative. The individual fund/account balances should be made positive by June 30 each year, by submitting a BD606 to realign salaries among funds. The SCS function 10 is used to review the summarized balances by budget code. Id., 2.1.2, "Reserved Balances" (emphases added).

Currently OSBPM monitors the balances after the fact and expects them to be accurate. Id. 6.1 (emphases added).

This passage suggests that OSBPM at most looks at the balances at the end of the year, since balances are allowed to go negative and are made positive by only one deadline a year.

Therefore, contrary to the statements by the Office Action, in SCS, any monitoring is at most performed by an office (OSBPM), and not by the on-line system, and done "after the fact." Consequently, the SCS system does not and can not provide an automated advance notification to a user "if the projected human resource budget exceeds a [reserved] fund." Instead, in SCS, balances may operate in the negative and, when they do, the users, i.e., OSBPM or state agencies, are responsible for detecting those negative balances.

Applicant contends that, for at least the above reasons, claim 1 is not anticipated by SCS.

Claims 2-8, 15-17, 23, 24, 30, 32, and 34

Independent claims 16, 23, and 34 are patentable for reasons similar to those discussed above with respect to claim 1. Claim 16 is directed to a computer-implemented method which includes, among other things, "evaluating a projected human resource budget ... monitoring changes in said projected human resource budget ... and providing an automatic advance notification to a user." Similarly, claim 23 is directed to a computer program product which causes a processor of a computer to execute steps including "evaluating a projected human resource budget ... monitoring

changes in said projected human resource budget ... and providing an automatic advance notification to a user." Claim 34 is directed to a position budgeting and control system which includes a commitments engine configured for, among other things, "evaluating a projected human resource budget ... monitoring changes in the projected human resource budget ... and providing an automatic advance notification to a user." As explained above, SCS does not teach or suggest each and every one of these elements recited in claims 16, 23, and 34.

Dependent claims 2-8, 15, 17, 24, 30, and 32 depend, either directly or indirectly, from one of claims 1, 16, and 23. Therefore, at least for the reasons stated above, claims 2-8, 15-17, 23, 24, 30, 32, and 34 are not anticipated by SCS.

Claim Rejections Under 35 U.S.C. §103

Applicant respectfully traverses the 35 U.S.C. §103 rejections at least in part because the Office Action has not established a *prima facie* case of obviousness with respect to the rejected claims.

Claims 9-10, 18-22, and 25-29

Claims 9-10, 18-22, and 25-29 depend either directly or indirectly from, and therefore include elements of, one of independent claims 1, 16, and 23. The Office Action, on page 7, rejected claims 9-10, 18-22, and 25-29 under 35 U.S.C. §103(a) as being obvious over SCS in view of GLS. The Office Action relied on GLS to provide elements of these claims which are admittedly missing from SCS.

GLS in general discloses a system for calculating balance of encumbrances on wages. Applicant respectfully submits that, regardless of whether GLS teaches the elements for which the Office Action relies on it, GLS does not teach or suggest the

elements discussed above with regard to claim 1 that are missing from SCS. Therefore, at least for the reasons stated above in relation to claims 1, 16, and 23, claims 9-10, 18-22, and 25-29 are patentable over SCS and GLS, alone or in combination.

Claims 11-14

Claims 11-14 depend either directly or indirectly from, and therefore include elements of, independent claim 1. The Office Action, on pages 9-11, rejected claims 11-14 under 35 U.S.C. §103(a) as being obvious over SCS in view of Visual Rota. The Office Action relied on Visual Rota to provide elements of these claims that are admittedly missing from SCS. Applicant submits that, regardless of whether Visual Rota teaches the elements for which the Office Action relies on it, Visual Rota does not teach or suggest the elements discussed above with regard to claim 1, which are missing from SCS. Therefore, at least for the reasons stated above in relation to claim 1, claims 11-14 are patentable over SCS and Visual Rota, alone or in combination.

New Claim

Newly added claim 35 depends from claim 1 and, therefore, includes those elements of claim 1 which are missing from the cited references. Moreover, claim 35 additionally recites that “the commitment engine provides an automatic advance notification to a user by sending a message to the user.” As explained above, none of the cited references teach or suggest this element either. Applicant therefore contends that claim 35 is also patentable over the cited references.

IV. Conclusion

In view of the foregoing amendments and remarks, Applicant respectfully requests reconsideration and reexamination of this application and the timely allowance of the pending claims.

Please grant any extensions of time required to enter this response and charge any additional required fees to our deposit account 06-0916.

Respectfully submitted,

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Dated: June 2, 2009

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